



Control Number: 52938



Item Number: 158

Peter M. Lake
Chairman

Will McAdams
Commissioner

Lori Cobos
Commissioner

Jimmy Glotfelty
Commissioner

Thomas J. Gleeson
Executive Director



2022 JUN 30 AM 8:14

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Greg Abbott
Governor

Public Utility Commission of Texas

June 24, 2022

VIA CERTIFIED MAIL
& VIA EMAIL (CityManager@ci.smithville.tx.us)

Robert Tamble
City Manager
City of Smithville
317 Main Street
P.O. Box 449
Smithville, TX 78957

RE: *Investigation No. 2022060008* – Investigation of Compliance with PURA § 38.102(e) and 16 Tex. Admin. Code § 25.97(f)(2), Related to Line Inspection and Safety Annual Reporting

Finding of an Occurrence of Violation and Offer to Negotiate an Agreement

Dear Mr. Tamble,

A recent investigation by the Division of Compliance and Enforcement (DICE) of the Public Utility Commission of Texas (Commission) concluded that the City of Smithville (Smithville) violated Public Utility Regulatory Act (PURA)¹ § 38.102(e) and 16 Texas Administrative Code (TAC) § 25.97(f)(2) because Smithville failed to file its power line inspection and safety annual report for calendar years 2019, 2020, and 2021 on time.

I. APPLICABLE LAW

PURA § 38.102(e) requires a municipally owned utility that owns or operates overhead transmission facilities greater than 60 kilovolts or distribution facilities greater than one kilovolt to file a report no later than May 1st of each year. The report must contain the number

¹ Tex. Util. Code §§ 11.001-66.016. (PURA)



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of the public by denying the public access to this safety information. Accordingly, the violations merit the assessment of administrative penalties.

Under 16 TAC § 25.8(b)(1), a failure to file a report or provide information required by the Commission's rules is characterized as a Class C violation. The maximum administrative penalty for a Class C violation is \$1,000 per violation per day the violation occurs. Smithville was 460 days late filing its calendar year 2019 report, 93 days late filing its calendar year 2020 report, and as of the date of this letter is 53 days late filing its calendar year 2021 report.

In order to avoid the time and expense of litigation, DICE proposes that Smithville pay an administrative penalty of \$121,200, which represents \$200 per day each report was late. DICE proposes that this penalty be increased by \$200 per day for every day after the date of this letter that Smithville continues to fail to file its annual report for calendar year 2021 in Project No. 52938.

DICE is prepared to request that the executive director issue a formal Notice of Violation (NOV) with a recommended administrative penalty amount that will exceed the amount included in this preliminary offer. Smithville has until 20 days after receiving this letter to accept an offer to negotiate to resolve the matter. If Smithville does not contact DICE by then, DICE will assume Smithville is unwilling to negotiate a resolution.

If settlement discussions are ultimately unsuccessful, DICE will proceed with a request to the executive director to issue an NOV. Should settlement of this investigation not be possible, and the executive director issues an NOV, Smithville may request a hearing on the occurrence of the violation, the recommended administrative penalty, or both, no later than 20 days after receipt of the NOV, according to 16 TAC § 22.246.

Sincerely,



Barksdale English
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7365
(512) 936-7268 (facsimile)
barksdale.english@puc.texas.gov



Public Utility Commission of Texas

Annual Report

Required by 16 Texas Admin. Code § 25.97(f)

PROJECT NO. 52938

AFFECTED ENTITY: City of Smithville

General Information

Pursuant to 16 Texas Admin. Code § 25.97(f)(1), not later than May 1 of each year, each affected entity must submit this report for the preceding calendar year. The first report must be submitted not later than May 1, 2020.

Instructions

Answer all questions, fill-in all blanks, and have the report notarized in the affidavit. If you check no in part 1.a, leave parts 1.b-d blank.

Violations resulting from, and incidents, fatalities, or injuries attributable to a violation resulting from, a natural disaster, weather event, or man-made act or force outside of an affected entity's control are not required to be reported.

Affidavit

A representative of the affected entity must swear to and affirm the truthfulness, correctness, and completeness of the information provided by attaching a signed and notarized copy of the Affidavit provided with this form.

Filing Instructions

Submit four copies (an original and three copies) of the completed form and signed and notarized Affidavit to:

Central Records Filing Clerk
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
Telephone: (512) 936-7180

1. This part applies only to an affected entity that owns or operates overhead transmission facilities greater than 60 kilovolts.

a) Does this part 1 apply to you? Yes ☐ No ☒

b) Provide the number of identified occurrences of noncompliance with Public Utility Regulatory Act (PURA) § 38.004 regarding vertical clearance requirements of the National Electrical Safety Code (NESC) for overhead transmission facilities.

- c) Do you have actual knowledge that any portion of your transmission system is not in compliance with PURA § 38.004 regarding vertical clearance requirements of the NESC for overhead transmission facilities?

- d) Do you have actual knowledge of any violations of easement agreements with the United States Army Corps of Engineers relating to PURA § 38.004 regarding vertical clearance requirements of the NESC for overhead transmission facilities?

2. This part applies to an affected entity that owns or operates overhead transmission facilities greater than 60 kilovolts or distribution facilities greater than 1 kilovolt.

- a) Provide the number of fatalities or injuries of individuals other than employees, contractors, or other persons qualified to work in proximity to overhead high voltage lines involving transmission or distribution assets related to noncompliance with the requirements of PURA § 38.004.

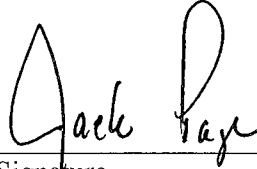
None

b) Provide a description of corrective actions taken or planned to prevent the reoccurrence of fatalities or injuries described in subpart a), immediately above.

N/A

AFFIDAVIT

I swear or affirm that I have personal knowledge of the facts stated in this report or am relying on people with personal knowledge, that I am competent to testify to them, and that I have the authority to submit this report on behalf of the affected entity. I further swear or affirm that all statements made in this report are true, correct, and complete.



Signature

Jack Page

Printed Name

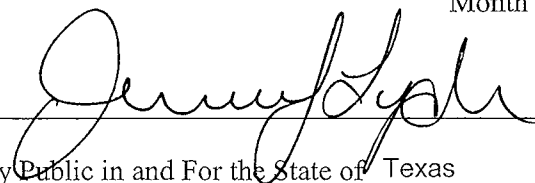
Public Works Director

Job Title

City of Smithville

Name of Affected Entity

Sworn and subscribed before me this 27th day of June, 2022.
Month Year

Notary Public in and For the State of TexasMy commission expires on February 27, 2023